

By: Nelson, et al.

S.B. No. 44

A BILL TO BE ENTITLED

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AN ACT

relating to the provision of intervention or counseling services to certain persons who have committed family violence and to a process for accrediting those services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 14, Article 42.12, Code of Criminal Procedure, as amended by Chapter 165, Acts of the 73rd Legislature, Regular Session, 1993, Chapter 910, Acts of the 76th Legislature, Regular Session, 1999, and Chapter 353, Acts of the 78th Legislature, Regular Session, 2003, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to read as follows:

(c) If the court grants community supervision to a person convicted of an offense involving family violence, as defined by Section 71.004, Family Code, the court may require the defendant ~~[to attend]~~, at the direction of the community supervision and corrections department officer, to:

(1) attend a battering intervention and prevention program as defined by Article 42.141;

(2) beginning on September 1, 2008, if the referral option under Subdivision (1) is not available, attend a program or counsel with a provider that has begun the accreditation process described by Subsection (c-1); or

(3) if the referral option under Subdivision (1) or,

1 beginning on September 1, 2008, the referral option under  
2 Subdivision (2) is not available, attend counseling sessions for  
3 the elimination of violent behavior with a licensed counselor,  
4 social worker, or other professional who has completed:

5 (A) [been trained in] family violence  
6 intervention training that:

7 (i) is approved by the community justice  
8 assistance division of the Texas Department of Criminal Justice;  
9 and

10 (ii) consists of an initial 40 hours of  
11 training; and

12 (B) an annual 12 hours of continuing education  
13 approved [or to attend a battering intervention and prevention  
14 program if available that meets guidelines adopted] by the  
15 community justice assistance division of the Texas Department of  
16 Criminal Justice.

17 (c-1) Beginning on September 1, 2009, a program or provider  
18 serving as a referral option for the courts under Subsection (c)(1)  
19 or (2) must be accredited under Section 4A, Article 42.141, as  
20 conforming to program guidelines under that article.

21 (c-2) If the court requires the defendant to attend  
22 counseling or a program, the court shall require the defendant to  
23 begin attendance not later than the 60th day after the date the  
24 court grants community supervision, notify the community  
25 supervision and corrections department officer of the name,  
26 address, and phone number of the counselor or program, and report  
27 the defendant's attendance to the officer. The court shall require

1 the defendant to pay all the reasonable costs of the counseling  
2 sessions or attendance in the program on a finding that the  
3 defendant is financially able to make payment. If the court finds  
4 the defendant is unable to make payment, the court shall make the  
5 counseling sessions or enrollment in the program available without  
6 cost to the defendant. The court may also require the defendant to  
7 pay all or a part of the reasonable costs incurred by the victim for  
8 counseling made necessary by the offense, on a finding that the  
9 defendant is financially able to make payment. The court may order  
10 the defendant to make payments under this subsection for a period  
11 not to exceed one year after the date on which the order is entered.

12 SECTION 2. Subdivision (7), Section 1, Article 42.141, Code  
13 of Criminal Procedure, is amended to read as follows:

14 (7) "Program" means a battering intervention and  
15 prevention program ~~[operated by a nonprofit organization]~~ that:

16 (A) meets:

17 (i) the guidelines adopted by the community  
18 justice assistance division of the Texas Department of Criminal  
19 Justice with the assistance of the statewide nonprofit organization  
20 described by Section 3(1); and

21 (ii) any other eligibility requirements  
22 adopted by the Texas Department of Criminal Justice; and

23 (B) provides, on a local basis to batterers  
24 referred by the courts for intervention ~~[treatment]~~, ~~[treatment~~  
25 ~~and]~~ educational services and intervention designed to help the  
26 batterers stop their abusive behavior.

27 SECTION 3. Article 42.141, Code of Criminal Procedure, is

1 amended by amending Sections 3 and 4 and adding Section 4A to read  
2 as follows:

3           Sec. 3. DUTIES OF THE DIVISION. The division shall:

4           (1) contract with a nonprofit organization that for  
5 the five-year period before the date on which a contract is to be  
6 signed has been involved in providing to shelter centers, law  
7 enforcement agencies, and the legal community statewide advocacy  
8 and technical assistance relating to family violence, with the  
9 contract requiring the nonprofit organization to perform the duties  
10 described in Section (4) of this article;

11           (2) seek the input of the statewide nonprofit  
12 organization described in Subdivision (1) [~~of this section~~] in the  
13 development of standards for selection of programs for inclusion in  
14 the project and the review of proposals submitted by programs;

15           (3) issue requests for proposals for the programs and  
16 an educational campaign not later than January 1, 1990;

17           (4) award contracts for programs that are operated by  
18 nonprofit organizations and that take into consideration:

19                   (A) a balanced geographical distribution of  
20 urban, rural, and suburban models; and

21                   (B) the presence of a responsive law enforcement  
22 climate in the community;

23           (5) develop and monitor the project in cooperation  
24 with the nonprofit organization described by Subdivision (1);

25           (6) monitor the development of a community educational  
26 campaign in cooperation with the nonprofit organization described  
27 by Subdivision (1);

1           (7) assist the nonprofit organization described by  
2 Subdivision (1) in designing program evaluations and research  
3 activities; ~~and~~

4           (8) facilitate training of probation officers and  
5 other criminal justice professionals by the nonprofit organization  
6 described by Subdivision (1) and by programs; and

7           (9) seek the assistance of the nonprofit organization  
8 described by Subdivision (1) in developing program guidelines and  
9 in accrediting programs and providers providing battering  
10 intervention and prevention services as conforming to those  
11 guidelines.

12           Sec. 4. DUTIES OF THE NONPROFIT ORGANIZATION.       The  
13 nonprofit organization with which the division contracts under  
14 Section 3(1) shall:

15           (1) assist the division in developing and issuing  
16 requests for proposals for the programs and the educational  
17 campaign;

18           (2) assist the division in reviewing the submitted  
19 proposals and making recommendations for proposals to be selected  
20 for funding;

21           (3) develop and monitor the project in cooperation  
22 with the division;

23           (4) provide technical assistance to programs to:  
24               (A) develop appropriate services for batterers;  
25               (B) train staff;  
26               (C) improve coordination with shelter centers,  
27 the criminal justice system, the judiciary, law enforcement

1 agencies, prosecutors, and other appropriate officials and support  
2 services;

3 (D) implement the community educational  
4 campaign; and

5 (E) participate in project administered program  
6 evaluation and research activities;

7 (5) provide technical assistance to the division to:

8 (A) develop and implement standards for  
9 selection of programs for inclusion in the project; and

10 (B) develop standards for selection of the  
11 community educational campaign described in Section 6 of this  
12 article;

13 (6) submit an annual written report to the division  
14 and to the legislature with recommendations for continuation,  
15 elimination, or changes in the project; ~~and~~

16 (7) evaluate the programs and the community  
17 educational campaign, including an analysis of the effectiveness of  
18 the project and the level of public awareness relating to family  
19 violence; and

20 (8) assist the division in developing program  
21 guidelines and in accrediting programs and providers providing  
22 battering intervention and prevention services as conforming to  
23 those guidelines.

24 Sec. 4A. ADOPTION OF PROGRAM GUIDELINES; ACCREDITATION  
25 PROCESS. With the assistance of the statewide nonprofit  
26 organization described by Section 3(1), the division shall adopt  
27 guidelines for programs and shall accredit programs and providers

1 providing battering intervention and prevention services as  
2 conforming to those guidelines. The division shall collect from  
3 each program or provider that applies for accreditation under this  
4 section a one-time application fee in an amount set by the Texas  
5 Department of Criminal Justice.

6 SECTION 4. Section 85.022, Family Code, is amended by  
7 amending Subsection (a) and by adding Subsection (a-1) to read as  
8 follows:

9 (a) In a protective order, the court may order the person  
10 found to have committed family violence to perform acts specified  
11 by the court that the court determines are necessary or appropriate  
12 to prevent or reduce the likelihood of family violence and may order  
13 that person to:

14 (1) complete a battering intervention and prevention  
15 program accredited under [~~as provided by~~] Article 42.141, Code of  
16 Criminal Procedure[, ~~and that meets the guidelines adopted by the~~  
17 ~~community justice assistance division of the Texas Department of~~  
18 ~~Criminal Justice if a program is available~~];

19 (2) beginning on September 1, 2008, if the referral  
20 option under Subdivision (1) is not available, complete a program  
21 or counsel with a provider that has begun the accreditation process  
22 described by Subsection (a-1); or

23 (3) if the referral option under Subdivision (1) or,  
24 beginning on September 1, 2008, the referral option under  
25 Subdivision (2) is not available, counsel with a social worker,  
26 family service agency, physician, psychologist, licensed  
27 therapist, or licensed professional counselor who has completed:

1                   (A) family violence intervention training that:

2                   (i) is approved by the community justice  
3 assistance division of the Texas Department of Criminal Justice;  
4 and

5                   (ii) consists of an initial 40 hours of  
6 training; and

7                   (B) an annual 12 hours of continuing education  
8 approved by the community justice assistance division of the Texas  
9 Department of Criminal Justice [~~if a program under Subdivision (1)~~  
10 ~~is not available; or~~

11                   ~~[(3) perform acts specified by the court that the~~  
12 ~~court determines are necessary or appropriate to prevent or reduce~~  
13 ~~the likelihood of family violence].~~

14                   (a-1) Beginning on September 1, 2009, a program or provider  
15 serving as a referral option for the courts under Subsection (a)(1)  
16 or (2) must be accredited under Section 4A, Article 42.141, Code of  
17 Criminal Procedure, as conforming to program guidelines under that  
18 article.

19                   SECTION 5. Subsection (a), Section 85.024, Family Code, is  
20 amended to read as follows:

21                   (a) A person found to have engaged in family violence who is  
22 ordered to attend a program or counseling under Section  
23 85.022(a)(1), ~~or~~ (2), or (3) shall file with the court an  
24 affidavit before the 60th day after the date the order was rendered  
25 stating either that the person has begun the program or counseling  
26 or that a program or counseling is not available within a reasonable  
27 distance from the person's residence. A person who files an



1 affidavit that the person has begun the program or counseling shall  
2 file with the court before the date the protective order expires a  
3 statement that the person completed the program or counseling not  
4 later than the 30th day before the expiration date of the protective  
5 order. An affidavit under this subsection must be accompanied by a  
6 letter, notice, or certificate from the program or counselor that  
7 verifies the person's completion of the program or counseling. A  
8 person who fails to comply with this subsection may be punished for  
9 contempt of court under Section 21.002, Government Code.

10 SECTION 6. (a) The changes in law made by Sections 1, 4,  
11 and 5 of this Act apply only to a court order granting community  
12 supervision or a protective order or a modification of the order  
13 that is rendered on or after the effective date of this Act. A court  
14 order granting community supervision or a protective order or a  
15 modification of the order that is rendered before the effective  
16 date of this Act is governed by the law in effect on the date the  
17 order or modification was rendered, and the former law is continued  
18 in effect for that purpose.

19 (b) Not later than April 1, 2008, the community justice  
20 assistance division of the Texas Department of Criminal Justice  
21 shall adopt the guidelines required by Section 4A, Article 42.141,  
22 Code of Criminal Procedure, as added by this Act.

23 SECTION 7. In implementing this Act, the Texas Department  
24 of Criminal Justice may not use any funds specifically appropriated  
25 by the legislature for a statewide allocation of grants to local  
26 nonprofit organizations for battering intervention and prevention  
27 programs.

1 SECTION 8. This Act takes effect September 1, 2007.